

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/790,669 Examiner: Foster, Marlee § Confirmation No.: Christine Filed: March 1, 2004 Art Unit: 3731 Inventor(s): Atty. Dkt. No.: 5838-01801 Suresh et al. § CERTIFICATE OF MAILING § UNDER 37 ¢.F.R. \$1.8 § DATE OF DEPOSIT: § I hereby certify that this correspondence is being deposited with § Title: METHOD AND DEVICE the United States Postal Service with sufficient postage as first § class mail on the date indicated above and is addressed to: FOR PERCUTANEOUS Commissioner for Patents § **SURGICAL** § VENTRICULAR REPAIR

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PATENT APPLICATION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 Dear Sir:

- 1. Applicant is the owner of all rights in the captioned application.
- 2. As sole owner in the captioned application, Applicant hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §154 to §156 and §173, as presently shortened by any terminal disclaimer, of U.S. Patent Application No. 10/235,295.
- 3. Applicant hereby agrees that any patent so granted on the captioned application shall be enforceable only for and during such period that the patent and U.S. Patent Application No.

10/235,295 are commonly owned. This agreement runs with any patent granted on the captioned patent application and is binding upon the grantee of such patent, and its or his successors or assigns.

- 4. In making the above disclaimer, Applicant does not disclaim the terminal part of any patent granted on the captioned patent application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §154 to §156 and §173 of U.S. Patent Application No. 10/235,295, as presently shortened by any terminal disclaimer, in the event that U.S. Patent Application No. 10/235,295 later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.
- 5. Applicant certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventors of the patent application identified above.

6. A fee authorization for the required fee is attached.

Rv

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